

Message

From: Collazo Reyes, Yvette [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=01C32A1E27414D93BF8AD00B09000ACA-COLLAZOREYE]
Sent: 1/22/2021 3:51:18 PM
To: Blair, Susanna [Blair.Susanna@epa.gov]
Subject: FW: FYI - Quick Notes on Initial Biden EOs and Directives

Importance: High

FYI!

From: Hofmann, Angela <Hofmann.Angela@epa.gov>

Sent: Friday, January 22, 2021 10:39 AM

To: Tyler, Tom <Tyler.Tom@epa.gov>; Altieri, Sonia <Altieri.Sonia@epa.gov>; Hanley, Mary <Hanley.Mary@epa.gov>; Keigwin, Richard <Keigwin.Richard@epa.gov>; Hartman, Mark <Hartman.Mark@epa.gov>; Siciliano, CarolAnn <Siciliano.CarolAnn@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>; Dinkins, Darlene <Dinkins.Darlene@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Malloy, Ruth <malloy.ruth@epa.gov>; Collazo Reyes, Yvette <CollazoReyes.Yvette@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Brown, KendraR <Brown.KendraR@epa.gov>; Henry, Tala <Henry.Tala@epa.gov>; Messina, Edward <Messina.Edward@epa.gov>; Goodis, Michael <Goodis.Michael@epa.gov>; Mayes, Desmond <Mayes.Desmond@epa.gov>; Richmond, Jonah <Richmond.Jonah@epa.gov>; Layne, Arnold <Layne.Arnold@epa.gov>

Cc: Smith, Peterj <Smith.Peterj@epa.gov>; Mosby, Jackie <Mosby.Jackie@epa.gov>; Wormell, Lance <Wormell.Lance@epa.gov>; Gray, Shawna <Gray.Shawna@epa.gov>

Subject: FYI - Quick Notes on Initial Biden EOs and Directives

Importance: High

Hi everyone,

As promised at this morning's check-in, here is the quick summary that Peter pulled together. As in the past, we expect to get more detailed instructions from OP on implementing these actions within EPA.

In the meantime, Peter or I may be reaching out to fulfill requests we are getting from OP directly. Two immediate items due COB today:

- 1) List of actions with Statutory deadlines between now and June 30, 2021. We pulled this from the ADP Tracker, but it is not clear that we have the PRIA dates so I've reached out to Stephen Schaible. Peter and I will share the list of actions, along with a list of other upcoming statutory deadlines that go beyond that date.
- 2) List of signed but not published FR Documents – I will share the matrix in a separate email that will include the DDs that signed the FRNs. We need to sort them and identify which need other action (supplemental info, redo, extensions etc).
- 3) Updates to ADP Tracker, especially for anything with internal milestones between now and June 30, 2021. There are a lot of past dates for the non-ADP pesticide actions, but we have made the updates that were provided already. My staff are working today to update the old planned dates – If we can't find a completed date, we will ask the lead for a new planned dates.

Thanks, Peter. This is a very helpful summary!

- Angela

From: Smith, Peterj <Smith.Peterj@epa.gov>

Sent: Thursday, January 21, 2021 11:59 AM

To: Hofmann, Angela <Hofmann.Angela@epa.gov>; Kemme, Sara <kemme.sara@epa.gov>; Sleasman, Katherine <Sleasman.Katherine@epa.gov>; Chun, Melissa <Chun.Melissa@epa.gov>

Subject: Quick Notes on Initial Biden EOs and Directives

1. Memorandum on Regulatory Freeze Pending Review

• **REQUIREMENTS:**

- **Propose or issue no rule in any manner — including by sending a rule to the Office of the Federal Register (the “OFR”) — until a department or agency head appointed or designated by the President after noon on January 20, 2021, reviews and approves the rule.** The department or agency head may delegate this power of review and approval to any other person so appointed or designated by the President, consistent with applicable law.
- **Immediately withdraw from OFR** any rule not yet published in the Federal Register for review by new Agency officials.
- **For published rules that have not yet taken effect, postpone the effective date by 60-days and consider opening a 30-day public comment period** to receive comments about issues of fact, law, and policy raised by those rules, and consider pending petitions for reconsideration
 - Where necessary to continue to review these questions of fact, law, and policy, consider further delaying, or publishing for notice and comment proposed rules further delaying, such rules beyond the 60-day period.
 - If they raise no substantive issues of law, policy, or fact - no further action is needed
 - Otherwise, notify OMB and take further action in consultation with OMB.
- Exclude any rules subject to statutory or judicial deadlines and identify such exclusions to OMB ASAP.
- Promptly notify OMB of any rules that should be excluded rules affecting critical health, safety, environmental, financial, or national security matters, or for some other reason. OMB will decide what to do.
- **Also applies to guidance documents issued over the same period.**

2. Memorandum on Modernizing Regulatory Review

• **KEY DETAILS:**

- **Reaffirms EOs 12866 and 13563**
- Establishes Administration policy of addressing the challenges of the global pandemic, a major economic downturn, systemic racial inequality, and climate change (among others).
- Directs **OMB to consult with agencies as appropriate and ASAP to begin a process with the goal of producing a set of recommendations for improving and modernizing regulatory review**, and in particular how the regulatory review process can promote:
 - Public health and safety.
 - Economic growth.
 - Social welfare.
 - Racial justice.
 - Environmental stewardship.
 - Human dignity.
 - Equity.
 - The interests of future generations.
- Recommendations **need to be informed by public engagement** with relevant stakeholders.
- Expectations for recommendations include:
 - Identification of ways to **modernize and improve the regulatory review process**, including through revisions to OMB’s Circular A-4 (Regulatory Analysis), to ensure that the review process promotes policies that:
 - Reflect new developments in scientific and economic understanding.
 - Fully accounts for regulatory benefits that are difficult or impossible to quantify.
 - Does not have harmful anti-regulatory or deregulatory effects.
 - Proposed procedures that take into account the distributional consequences of regulations, including as part of any quantitative or qualitative analysis of the costs and

benefits of regulations, to ensure that regulatory initiatives appropriately benefit and do not inappropriately burden disadvantaged, vulnerable, or marginalized communities;

- Consideration ways that **OIRA can play a more proactive role in partnering with agencies** to explore, promote, and undertake regulatory initiatives that are likely to yield significant benefits; and
- Identification of **reforms** that will promote the efficiency, transparency, and inclusiveness **of the interagency review process**,
- Determination of an **appropriate approach** with respect **to the review of guidance documents**.

3. Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation

- **REVOKES:**

- **EO 13771, Reducing Regulation and Controlling Regulatory Costs.**
- **EO 13777, Enforcing the Regulatory Reform Agenda.**
- EO 13875, Evaluating and Improving the Utility of Federal Advisory Committees.
- **EO 13891, Promoting the Rule of Law Through Improved Agency Guidance Documents.**
- EO 13892, Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication.
- EO 13893, Increasing Government Accountability for Administrative Actions by Reinvigorating Administrative PAYGO.

- **KEY DETAILS:**

- Agencies directed to promptly take steps to **rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the EOs** (e.g., OMB memoranda implementing EO 13771), as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 et seq.
- If a rescission of implementing policies cannot be finalized immediately, **OMB and agencies shall promptly take steps to provide all available exemptions** authorized by any such orders, rules, regulations, guidelines, or policies, as appropriate and consistent with applicable law.
- Any **personnel positions, committees, task forces, or other entities established pursuant to the EOs**, including the regulatory reform officer positions and regulatory reform task forces, **shall be abolished**, as appropriate and consistent with applicable law.
- *OP has already suspended implementation and infrastructure for EO 13891 and EPA's procedural rule concerning guidance documents.*
- *January 8, 2021 memorandum from OMB to EPA concerning IRIS assessments and values under EO 13891 will be rescinded.*

4. Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

- **KEY DETAILS:**

- Establishes administration policy to:
 - **Listen to the science.**
 - **Improve public health and protect our environment.**
 - Ensure access to clean air and water.
 - **Limit exposure to dangerous chemicals and pesticides.**
 - Hold polluters accountable, including those who disproportionately harm communities of color and low-income communities.
 - **Reduce greenhouse gas emissions.**
 - Bolster resilience to the impacts of climate change.
 - Restore and expand our national treasures and monuments.
 - **Prioritize both environmental justice** and the creation of the well-paying union jobs necessary to deliver on these goals.

- Requires **immediate review all existing regulations, orders, guidance documents, policies, and any other similar agency actions** (agency actions) promulgated, issued, or adopted between **January 20, 2017, and January 20, 2021**, that are or may be inconsistent with, or present obstacles to, the policy. For any such identified actions, **consider suspending, revising, or rescinding**. **EPA list is already available and includes many OCSPP actions**: See https://insideepa.com/sites/insideepa.com/files/documents/2021/jan/epa2021_0116.pdf

- **REVOKES:**

- EO 13766, Expediting Environmental Reviews and Approvals For High Priority Infrastructure Projects.
- EO 13778, Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the “Waters of the United States” Rule.
- EO 13783, Promoting Energy Independence and Economic Growth.
- EO 13792, Review of Designations Under the Antiquities Act.
- EO 13795, Implementing an America-First Offshore Energy Strategy.
- EO 13868, Promoting Energy Infrastructure and Economic Growth.
- **EO 13927, Accelerating the Nation’s Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities.** *OCSPP identified actions in response to Spring 2020 exercise led by Sarah Stillman.*
- EO 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects
- CEQ’s 2019 Draft NEPA guidance on GHG Emissions
- Presidential memoranda issued in 2018 and 2020 addressing [Promotion of] Domestic Manufacturing and Job Creation Policies and Procedures Relating to Implementation of Air Quality Standards, [Promotion of] the Reliable Supply and Delivery of Water in the West, and Developing and Delivering More Water Supplies in California

- **PARTIALLY REVOKES:**

- EO 13834, Efficient Federal Operations. Sections, 6, 7, (concerning chief sustainability officers) and 11 of that EO somehow remain in effect.

- **SUSPENDS:**

- EO 13920, Securing the United States Bulk-Power System, for 90 days

5. Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government

- **KEY DETAILS:**

- **Requires the Domestic Policy Council to** coordinate efforts to embed equity principles, policies, and approaches across the Federal Government, including efforts to:
 - Remove systemic barriers to and provide equal access to opportunities and benefits.
 - **Identify communities the Federal Government has underserved.**
 - **Develop policies designed to advance equity for those communities.**
- Requires agencies to **select certain of their respective programs and policies for a review that will assess whether underserved communities and their members face systemic barriers in accessing benefits and opportunities** available pursuant to those policies and programs. The head of each agency, or designee, shall **conduct such review and within 200 days** of the date of this order provide a report to the White House reflecting findings on the following:
 - Potential barriers that underserved communities and individuals may face to enrollment in and access to benefits and services in Federal programs.
 - Potential barriers that underserved communities and individuals may face in taking advantage of agency procurement and contracting opportunities.
 - **Whether new policies, regulations, or guidance documents may be necessary to advance equity in agency actions and programs.** *Broadly construed, could point to whether, e.g., TSCA risk evaluations need to address EJ concerns.*
 - The operational status and level of institutional resources available to offices or divisions within the agency that are responsible for advancing civil rights or whose mandates specifically include serving underrepresented or disadvantaged communities.

***NOTICE:** If this electronic communication explains, justifies, or documents an official action or decision, it may be subject to federal records requirements. Federal employees should evaluate the contents of this message before deleting it.*

Peter J. Smith | Office phone (202) 564-0262 | Mobile phone (202) 845-3485 | E-mail smith.peterj@epa.gov
US Environmental Protection Agency| Office of Chemical Safety & Pollution Prevention | Regulatory Support Branch